

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

The Examiner rejected claims 1-5 under 35 U.S.C. 102(e) as being anticipated by Andou et al., U.S. Pre-Grant Pub. No. 2003/0143451.

In accordance with 37 CFR 1.55, a certified translation of the priority document (JP 2002-127385) is included with this amendment. Insofar as it is believed that the translated priority document provides support for the presently claimed invention, Applicant's claim for priority is perfected, and the Andou publication is no longer available as a reference against the present application.

The Examiner rejected claims 1-5 under 35 U.S.C. 102(a) and (e) as being anticipated by Inoue et al., U.S. Pre-Grant Pub. No. 2003/0122970. The Examiner's rejection is traversed for the following reason.

Applicant discloses a fuel cell separator that has a metal central part and a resin peripheral part whereby the resin peripheral part is connected to the metal central part with an elastic member. A reaction gas passage is defined in the resin peripheral part, which guides the reaction gases to the metal central part. Further, a reaction product passage is defined in the resin peripheral part, which guides a reaction product produced at the metal central part to the reaction product passage. As required by claim 1, the reaction gas passage and the reaction product passage (hereinafter referred to collectively as "passages") are defined in the periphery portion of the separator. Further,

paragraphs [0002] through [0013] of the present application disclose that the periphery of a separator with a metal periphery is prone to corrosion where the reaction gasses (hydrogen and oxygen) and the reaction product (H_2O) pass through the passages. Thus, as disclosed in paragraph [0015] of the present invention, the purpose of a separator with a resin periphery is to prevent the periphery of the separator from corroding.

In his rejection of claims 1-5 the Examiner stated that Inoue teaches a fuel cell separator 14 having a metallic central portion 14a connected to an elastic member 41, 42, which is connected to a resin member 43, 44 that forms a peripheral portion. Thus, the Examiner contends that the portion of the separator represented by reference numbers 43 and 44 is a resin peripheral portion. Applicant respectfully disagrees. Inoue discloses a method for fabricating a seal-integrated separator whereby the separator includes a separator body made of stainless steel.

Accordingly, Inoue does not teach all the features of claim 1. More specifically, Inoue does not teach “wherein... the peripheral part is made from a resin member.”

Referring to paragraph [0086] and to FIG. 1 of Inoue, Inoue discloses a cathode side separator 14 and an anode side separator 16. Inoue expressly states that the separators 14, 16 are stamped plates made from stainless steel. The stainless steel separators 14, 16 include a central corrugated portion 32, 33 and plane portions 34, 35, which are located on the periphery of the plates outside the corrugated portions 32, 33. Multiple communication ports (or passages) 61a-63c and 61b-63b are defined in the plane portions 34, 35 of the separator 14, 16. Thus, the plane portion 34, 35 of the separator 14, 16 is the periphery and, as mentioned above, the entire separator 14, 16, including the central portion and the periphery, is

made from stainless steel. Whereas, in the present invention the central part is made from metal, however, the periphery is made of resin.

Further, referring now to paragraph [0088] and to FIGS. 2 and 3 Inoue also discloses an inner seal and an outer seal. The inner seal includes a first seal 41 and a second seal 42 located on the top and bottom surfaces respectively of an outer most groove 30a. The outer seal includes a third seal 43 and a fourth seal 44 located on the top and bottom surfaces respectively of the plane portion 34. The inner and outer seal provides a seal around the communication ports (or passages) 61a-63c and 61b-63b. Thus, reference numbers 43 and 44 are seals and not a resin member as the Examiner contends. Still further, it should be noted that in the last line of the Examiner's rejection, the Examiner identified reference numbers 43 and 44 not only as a resin member but also as seal parts.

Based on the foregoing, it is apparent that Inoue does not teach or suggest all the features of claim 1 and therefore cannot be cited as anticipating claim 1. More specifically, Inoue does not disclose, teach or suggest a separator having a resin peripheral portion. Thus, reconsideration and withdrawal of the rejections of claim 1 based upon the Inoue are hereby requested.

Claims 2-5 depend either directly or indirectly on claim 1, thus, all arguments pertaining to claim 1 are equally applicable to these claims and are herein incorporated by reference.

The Examiner provisionally rejected claims 1-5 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 7-23 of co-pending Application No. 10/352,958 (2003/0143451). In response to the provisional rejection, Applicant will file a terminal disclaimer if and when necessary.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. SHM-15712.

Respectfully submitted,

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